



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

AW

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/598,956 06/22/00 BELIVEAU

J 27233-0024

PM82/0420

EXAMINER

NATHALIE JODOIN
ROBIC
55 ST JACQUES
MONTREAL PQ H2Y 3X
CANADA

SYRES, C	
ART UNIT	PAPER NUMBER

AIR MAIL

3635
DATE MAILED:

74

04/20/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/598,956

Applicant(s)

BELIVEAU, JEAN-LOUIS

Examiner

Christy M. Syres

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

DETAILED ACTION

This is a first office action for serial number 09/598955, entitled Stackable Construction Panel, filed on June 22, 2000.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 5, the phrase "can be" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

Regarding claim 1, the phrase "and/or" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-5 and 7-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Obino, US patent # 4,731,968.

Obino discloses the claimed invention a stackable insulating foam panel having a top and bottom side (figure 1) each including a median row of alternating projections (5) and recesses (50) having a similar complementary shape, the median row being disposed between two coplanar edge surfaces (column 5, lines 41-45), each projection of the top side being opposed to a recess of the bottom side whereby the top side and/or the bottom side of the panel *can be* interconnected with either the top side or the bottom side of a like panel (column 5, lines 47-55); the projections have rounded corners (column 5, lines 56-57); and, the projections (5 – figure 2) and the recesses (50) have two opposite substantially convex lateral sides (figure 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 5-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obino.

In regards to claims 2 and 6, Obino discloses the claimed invention as stated above in claim 1, except for the shape of the projections and the recesses is generally

Art Unit: 3635

rectangular. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide shape of the projections and the recesses is generally rectangular, a change in the shape of a prior art device is a design consideration within the skill of the art, since it is already disclosed within the reference cited as a shape that seems to work equally well. In re Dailey, 357 F.2d 699, 149 USPQ 47 (CCPA 1966).

In regards to claims 5 and 7-13, Obino discloses the claimed invention as stated above in claim 1, including the first (1) and second (2) foamed panels are in parallel relationship (figure 1); a plurality of connectors (3) hingedly tying together the first and second foam panels (figure 4) where the foam panels are brought close to each other (column 4, lines 38-40), a pair of anchor members (where 30 points to) both embedded in the foam panels (1,2 – figure 4), an elongated flange plate (30) extending inside the foam panel, and elongated link element connected to the flange plate and having a projecting end coming out of the foam panel (see attached figure 4), a web member (3) between the first and second foam panels (figure 4), a stabilizing plate (where 32 points to), two aligned ridges (32) projecting from the stabilizing plate, a longitudinal sleeve (10, 20), a joining pin (the ends of "30"), a plurality of arms (figure 7) and the ridges of each connecting element having a pin-receiving hole/bore (60); except for a single median row of alternating projections and recesses. It would have been an obvious matter of design choice to provide a single median row of alternating projections and recesses, since applicant has not disclosed that only a single median row of alternating projections and recesses solves any stated problem or is for any particular purpose and

it appears that the invention would perform equally well with a double row of projections and recesses as shown in the reference cited to provide more stability when stacking the members.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M. Syres whose telephone number is (703) 308-9693. The examiner can normally be reached on Monday-Thursday (7:00-5:00), Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (703) 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

CMS

cms

March 26, 2001



Carl D. Friedman
Supervisory Patent Examiner
Group 3600